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# HOUSE BILL No. 1642

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-25.

**Synopsis:** Tax credit for employer child care expenses. Establishes a state tax credit for an employer that makes qualified child care expenditures, qualified child care resource and referral expenditures, or qualified child care planning expenditures on behalf of its employees. Provides that the maximum amount of the credit for each taxable year is the lesser of \$20,000 or 40% of the employer's qualified expenditures. Provides that if the taxpayer shares qualified expenditures with one or more individuals or entities, the amount of the taxpayer's credit equals the taxpayer's percentage share of expenditures multiplied by the total credit amount calculated for all shared expenditures.

**Effective:** January 1, 2004.

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January 16, 2003, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1642

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2004]:

4 **Chapter 25. Employer Child Care Expenditure Credits**

5 **Sec. 1. As used in this chapter, "pass through entity" means the**  
6 **following:**

7 (1) A corporation that is exempt from the adjusted gross  
8 income tax under IC 6-3-2-2.8(2).

9 (2) A partnership.

10 (3) A limited liability company.

11 (4) A limited liability partnership.

12 **Sec. 2. As used in this chapter, "qualified child care**  
13 **expenditure" has the meaning set forth in Section 45F(c)(1) of the**  
14 **Internal Revenue Code.**

15 **Sec. 3. As used in this chapter, "qualified child care facility" has**  
16 **the meaning set forth in Section 45F(c)(2) of the Internal Revenue**  
17 **Code.**

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1       **Sec. 4.** As used in this chapter, "qualified child care planning  
 2       **expenditure"** means any amount paid or incurred to determine the  
 3       **feasibility or practicability of providing child care in a qualified**  
 4       **child care facility that meets the requirements of section 8(a) of this**  
 5       **chapter. The term includes expenditures, made by the taxpayer or**  
 6       **by the taxpayer jointly with one (1) or more other individuals or**  
 7       **entities, for any of the following:**

8               **(1) Plans, specifications, studies, surveys, and estimates of**  
 9               **cost.**

10              **(2) Professional fees.**

11              **(3) Costs paid or incurred in connection with financing the**  
 12              **construction, acquisition, rehabilitation, or expansion of a**  
 13              **qualified child care facility that meets the requirements of**  
 14              **section 8(a) of this chapter.**

15              **(4) Any other expenses necessary or incident to planning or**  
 16              **determining the need for the provision of child care at a**  
 17              **qualified child care facility that meets the requirements of**  
 18              **section 8(a) of this chapter.**

19       **Sec. 5.** As used in this chapter, "qualified child care resource  
 20       **and referral expenditure"** has the meaning set forth in Section  
 21       **45F(c)(3) of the Internal Revenue Code.**

22       **Sec. 6.** As used in this chapter, "state tax liability" means a  
 23       **taxpayer's total tax liability that is incurred under:**

24              **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

25              **(2) IC 6-5.5 (the financial institutions tax); and**

26              **(3) IC 27-1-18-2 (the insurance premiums tax);**

27       **as computed after the application of the credits that under**  
 28       **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
 29       **chapter.**

30       **Sec. 7.** As used in this chapter, "taxpayer" means an individual  
 31       **or entity that has state tax liability.**

32       **Sec. 8. (a)** A taxpayer that is eligible for an employer provided  
 33       **child care credit under Section 45F of the Internal Revenue Code**  
 34       **is eligible for a credit under this chapter for qualified child care**  
 35       **expenditures and qualified child care resource and referral**  
 36       **expenditures that are made during a taxable year for child care**  
 37       **provided in a qualified child care facility that is:**

38              **(1) located in Indiana;**

39              **(2) licensed by the division of family and children under**  
 40              **IC 12-17.2; and**

41              **(3) operated:**

42                  **(A) by the taxpayer;**

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- (B) by the taxpayer jointly with one (1) or more other individuals or entities; or
- (C) under a contract described in Section 45F(c)(1)(A)(iii) of the Internal Revenue Code as in effect on January 1, 2002.

A taxpayer that makes a qualified child care planning expenditure during a taxable year is eligible for a credit under this chapter, regardless of whether the taxpayer is eligible for an employer provided child care credit under Section 45F of the Internal Revenue Code for the taxable year.

(b) Except as provided in section 9 of this chapter, a taxpayer that makes a qualified child care expenditure, qualified child care resource and referral expenditure, or qualified child care planning expenditure during a taxable year is entitled to a credit against the taxpayer's state tax liability for the taxable year in an amount equal to the lesser of:

- (1) twenty thousand dollars (\$20,000) or, if the taxpayer shares in one (1) or more qualifying expenditures with one (1) or more individuals or entities, twenty thousand dollars (\$20,000) multiplied by the taxpayer's percentage share of the total qualified expenditures; or
- (2) forty percent (40%) of the taxpayer's total qualified expenditures made during the taxable year or, if the taxpayer shares in one (1) or more qualifying expenditures with one (1) or more individuals or entities, forty percent (40%) of the taxpayer's percentage share of the total qualified expenditures.

Sec. 9. (a) A taxpayer's credit for a taxable year may not exceed the taxpayer's state tax liability for that taxable year.

(b) If the amount determined under section 8 of this chapter for a taxpayer for a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the immediately following taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for three (3) taxable years following the unused credit year.

(c) The amount of a credit carryover under this section shall be reduced to the extent that the carryover is used as a credit during the immediately preceding taxable year.

(d) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 10. (a) If a pass through entity does not have state tax



1 liability against which the credit granted by this chapter may be  
 2 applied, a shareholder or partner of the pass through entity is  
 3 entitled to a credit equal to:

4 (1) the credit determined for the pass through entity for the  
 5 taxable year; multiplied by

6 (2) the percentage of the pass through entity's distributive  
 7 income to which the shareholder or partner is entitled.

8 (b) The credit provided under subsection (a) is in addition to a  
 9 credit to which a shareholder or partner of a pass through entity  
 10 is otherwise entitled under this chapter. However, a pass through  
 11 entity and a shareholder or partner of the pass through entity may  
 12 not claim a credit under this chapter for the same qualified child  
 13 care expenditure.

14 Sec. 11. To obtain a credit under this chapter, a taxpayer must  
 15 claim the credit in the manner prescribed by the department of  
 16 state revenue. The taxpayer shall submit to the department all  
 17 information that the department determines is necessary for the  
 18 calculation of the credit provided by this chapter.

19 Sec. 12. A credit to which a taxpayer is entitled under this  
 20 chapter shall be applied against the taxpayer's state tax liability in  
 21 the order of the taxes listed in section 6 of this chapter.

22 SECTION 2. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25, as  
 23 added by this act, applies only to taxable years that begin after  
 24 December 31, 2003.

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